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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

	Application No.	Applicant(s)
Office Action Summary	10/533,738	LEURS, NATHALIE DOROTHEE PIETERNEL
	Examiner	Art Unit	
	JAMES SHELEHEDA	2424	

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address* --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on <u>23 February 2009</u>.

2a) ☐ This action is **FINAL**.   2b) ☒ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) <u>1-3 and 5-19</u> is/are pending in the application.

     4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) <u>1-3 and 5-19</u> is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.

     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

     a) ☐ All   b) ☐ Some * c) ☐ None of:

        1. ☐ Certified copies of the priority documents have been received.

        2. ☐ Certified copies of the priority documents have been received in Application No. _____.

        3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

     * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.

5) ☐ Notice of Informal Patent Application

6) ☐ Other: _____.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1.   A request for continued examination under 37 CFR 1.114, including the fee set

forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this

application is eligible for continued examination under 37 CFR 1.114, and the fee set

forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action

has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on

02/23/09 has been entered.

Response to Arguments

2.   Applicant's arguments filed 02/23/09 have been fully considered but they are not

persuasive.

   a.   In response to applicant's arguments on pages 9-12, regarding the

   combination of Broadus and Lemmons, one cannot show nonobviousness by

   attacking references individually where the rejections are based on combinations

   of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In*

   re Merck & Co., 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

       In this case, as previously indicated, Broadus specifically discloses

   determining a content item duration indication, *wherein the content item duration*

   indication is related to a duration of each content item (column 7, lines 28-64) as

   he indicates the elapsed duration, remaining duration and total duration of the

content items. Broadus further explicitly discloses that the use of duration information for the program is more useful for the viewer compared to other time information, such as "start time", as the viewer can be made aware of exactly how much of the program they have missed (column 1, lines 30-62).

Lemmons was relied upon to disclose sorting the content items based upon a "time" attribute (see Fig. 7; paragraphs 82-85).

It is the *combination* of Broadus and Lemmons which discloses determining an ordered content item list by ordering the plurality of content items in response to the content item duration indication of each content item and presenting the ordered content item list, as Lemmons discloses

determining an ordered content item list by ordering the plurality of content items in response to the content item *time attribute* of each content item and presenting the ordered content item list

and Broadus discloses wherein the calculated time attribute of each content item would consist of a duration indication, as duration is often more useful to the viewer compared to general time information, such as start time.

Therefore, applicant's arguments are not convincing.

b.   In response to applicant's arguments on pages 9-12, regarding the combination of Broadus and Kaminsky, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations

of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.,* 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

In this case, as previously indicated, Broadus specifically discloses determining a content item duration indication, *wherein the content item duration indication is related to a duration of each content item* (column 7, lines 28-64) as he indicates the elapsed duration, remaining duration and total duration of the content items.

Kaminsky was relied upon to disclose sorting the content items based upon duration information of the programs (see Fig. 14; paragraphs 92-94), as this provides the user the ability to identify which programs have the most content available for viewing.

It is the *combination* of Broadus and Kaminsky which discloses determining an ordered content item list by ordering the plurality of content items in response to the content item duration indication of each content item and presenting the ordered content item list, as Kaminsky discloses

determining an ordered content item list by ordering the plurality of content items in response to a duration of each content item and presenting the ordered content item list

and Broadus discloses wherein the calculated time attribute of each content item would consist of a duration indication, comprising an indication of a remaining duration of each content item relative to a total duration of each content item.

Therefore, applicant's arguments are not convincing.

c.   Further, applicant's arguments with respect to claims 1-19 are moot in

view of the Third ground(s) of rejection under Broadus (7,203,952) (of record)

and Daily et al. (US 2004/0123320 A1).

Claim Rejections - 35 USC § 103

2.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

3.   Claims 1-3 and 5-19 are rejected under 35 U.S.C. 103(a) as being unpatentable

over Broadus (7,203,952) (of record) in view of Lemmons et al. (Lemmons) (US

2001/0013126 A1) (of record).

As to claim 1, Broadus discloses a method of providing a selection list of content

items (Fig. 5-6; column 7, line 65-column 8, line 9), the method comprising the acts of:

receiving a plurality of content items from at least one content source (column 6,

lines 9-16);

determining a content item duration indication for each of the plurality of content

items, wherein the content item indication is related to a duration of each content item

(elapsed duration, remaining duration and total duration; column 7, lines 28-64).

While Broadus discloses presenting a content item list as the selection list to a user (Fig. 5-6; column 7, line 65-column 8, line 15), wherein the content item duration indication comprises an indication of a remaining duration of each content item relative to a total duration of each content item (remaining program vs. total duration; see Broadus at column 7, lines 28-38 and column 9, lines 62-67), he fails to specifically disclose determining an ordered content item list by ordering the plurality of content items in response to the content item duration indication of each content item and presenting the ordered content item list.

In an analogous art, Lemmons discloses a method of providing a selection list of content items (Fig. 7; paragraph 74), which will determine an ordered content item list (sorting the programs; paragraph 76, 80-82) by ordering the plurality of content items in response to a time attribute (paragraphs 82-85) and present the ordered content item list (Fig. 7; paragraphs 80-85) for the typical benefit of allowing users to more easily locate programs of interest (paragraph 1).

It would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Broadus's system to include determining an ordered content item list by ordering the plurality of content items in response to the content item duration indication of each content item and presenting the ordered content item list, as taught by combination with Lemmons, for the typical benefit of allowing a user to more easily locate programs of interest.

As to claim 2, Broadus and Lemmons disclose wherein the content item duration indication is determined in response to the total duration of each content item (see Broadus at column 7, lines 28-38).

As to claim 3, Broadus and Lemmons disclose wherein the content item duration indication is determined in response to a remaining duration of each content item (see Broadus at column 7, lines 53-64).

As to claim 5, Broadus and Lemmons disclose wherein the content item duration indication is comprises an indication of a fraction of the remaining duration of each content item with respect to the total duration of each content item (remaining program vs. total duration; see Broadus at column 7, lines 28-38 and column 9, lines 62-67).

As to claim 6, Broadus and Lemmons disclose wherein the content item duration indication is determined in response to a received duration of each content item (see Broadus at column 7, lines 53-64).

As to claim 7, Broadus and Lemmons disclose wherein the content item duration indication is determined in response to a presented duration of each content item relative to the total duration of each content item (remaining program vs. total duration; see Broadus at column 7, lines 28-38 and column 9, lines 62-67).

As to claim 8, Broadus and Lemmons disclose wherein the content item duration indication is comprises an indication of a fraction of the presented duration of each content item with respect to the total duration of each content item (remaining program vs. total duration; see Broadus at column 7, lines 28-38 and column 9, lines 62-67).

As to claim 9, Broadus and Lemmons disclose determining a second content item duration indication for each of the plurality of content items (elapsed duration, remaining duration; see Broadus at column 7, lines 53-64); the second content item duration indication being different from the content item duration indication (elapsed duration, remaining duration; see Broadus at column 7, lines 53-64); and

wherein the step of determining an ordered content item list comprises ordering the plurality of content items (see Lemmons at Fig. 7; paragraphs 80-85) in response to the content duration indication of each content item (such as elapsed time; see Broadus at column 7, lines 53-64) or in response to the second content item duration indication of each content item (such as remaining time; see Broadus at column 7, lines 53-64) in response to a user preference (user selection of a particular sort option; see Lemmons at Fig. 7, paragraphs 80-85).

As to claim 10, Broadus and Lemmons disclose wherein the user preference is determined in response to a user input (user selection of a particular sort option; see Lemmons at Fig. 7, paragraphs 80-85).

As to claim 11, Broadus and Lemmons disclose wherein a single user activation causes the user preference to switch between being associated with the content item duration indication and being associated with the second content item duration indication (user selection of another sort option; see Lemmons at Fig. 7, paragraphs 80-85).

As to claim 12, Broadus and Lemmons disclose determining the user preference in response to at least one previous user preference input (defined by previous user search selections; see Lemmons at Fig. 7, paragraphs 82).

As to claim 13, Broadus and Lemmons disclose

determining a preferred user preference for different operating conditions (preferred default selection; see Lemmons at paragraphs 78 and 82);

determining a current operating condition (desired operation, such as search or sort; see Lemmons at paragraph 78 and paragraph 80);

setting the user preference as the preferred user preference for the current operating condition (see Lemmons at paragraphs 78 and 82).

As to claim 14, Broadus and Lemmons disclose wherein the current operating condition is determined in response to at least a content item content characteristic (as different content searches would have different available sort selections; see Lemmons at paragraph 82).

As to claim 15, Broadus and Lemmons disclose wherein the plurality of content items include at least one content item from the group of video sources and audio sources (see Broadus at column 3, line 59-column 4, line 16).

As to claim 16, Broadus and Lemmons disclose wherein the plurality of content items is received from a plurality of content sources (see Broadus at column 3, line 59-column 4, line 16).

As to claim 17, Broadus and Lemmons disclose a computer program enabling a method to be carried out (see Broadus at column 5, lines 37-46) according to claim 1 (see the rejection of claim 1 above).

As to claim 18, Broadus discloses an apparatus for providing a selection list of content items (STB, 102; Fig. 5-6; column 7, line 65-column 8, line 9), the apparatus comprising:

a content receiver (302, column 4, lines 55-65) for receiving a plurality of content items from at least one content source (column 6, lines 9-16);

a duration processor (312, column 6, lines 24-35) for determining a content item duration indication for each of the plurality of content items, wherein the content item duration indication is related to a duration of each content item (elapsed duration, remaining duration and total duration; column 7, lines 28-64).

While Broadus discloses a processor for controlling all of the software
components of the system (column 6, lines 24-35) and a user interface for presenting a
content item list as the selection list to a user (Fig. 5-6; column 7, line 65-column 8, line
15), wherein the content item duration indication comprises an indication of a remaining
duration of each content item relative to a total duration of each content item (remaining
program vs. total duration; see Broadus at column 7, lines 28-38 and column 9, lines
62-67), he fails to specifically disclose determining an ordered content item list by
ordering the plurality of content items in response to the content item duration indication
of each content item and presenting the ordered content item list.

In an analogous art, Lemmons discloses a method of providing a selection list of
content items (Fig. 7; paragraph 74), which will determine an ordered content item list
(sorting the programs; paragraph 76, 80-82) by ordering the plurality of content items in
response to a time attribute (paragraphs 82-85) and present the ordered content item
list (Fig. 7; paragraphs 80-85) for the typical benefit of allowing users to more easily
locate programs of interest (paragraph 1).

It would have been obvious to one of ordinary skill in the art at the time of
invention by applicant to modify Broadus's system to include determining an ordered
content item list by ordering the plurality of content items in response to the content item
duration indication of each content item and presenting the ordered content item list, as
taught by combination with Lemmons, for the typical benefit of allowing a user to more
easily locate programs of interest.

As to claim 19, Broadus and Lemmons disclose wherein the content item duration indication comprises an indication of a fraction of the remaining duration of each content item with respect to the total duration of each content item, and wherein the ordered content item list is ordered in accordance with the fraction (remaining program vs. total duration; see Broadus at column 7, lines 28-38 and column 9, lines 62-67 and Lemmons at paragraphs 82-85).

4.   Claims 1-3, 5-11 and 15-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Broadus in view of Kaminski et al. (Kaminski) (US 2002/0199185 A1) (of record).

As to claim 1, Broadus discloses a method of providing a selection list of content items (Fig. 5-6; column 7, line 65-column 8, line 9), the method comprising the acts of:

receiving a plurality of content items from at least one content source (column 6, lines 9-16);

determining a content item duration indication for each of the plurality of content items, wherein the content item indication is related to a duration of each content item (elapsed duration, remaining duration and total duration; column 7, lines 28-64).

While Broadus discloses presenting a content item list as the selection list to a user (Fig. 5-6; column 7, line 65-column 8, line 15), wherein the content item duration indication comprises an indication of a remaining duration of each content item relative to a total duration of each content item (remaining program vs. total duration; see Broadus at column 7, lines 28-38 and column 9, lines 62-67), he fails to specifically

disclose determining an ordered content item list by ordering the plurality of content items in response to the content item duration indication of each content item and presenting the ordered content item list.

In an analogous art, Kaminski discloses a method of providing a selection list of content items (Fig. 14; paragraph 92-94), which will determine an ordered content item list (sorting the programs; Fig. 14; paragraph 92-94) by ordering the plurality of content items in response to a duration indication of the content item (Fig. 14; paragraph 92-94) and present the ordered content item list (Fig. 14; paragraphs 92-94) for the typical benefit of allowing users to more easily locate programs of interest, by listing them in the specific order desired by the viewer (paragraphs 92-94).

It would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Broadus's system to include determining an ordered content item list by ordering the plurality of content items in response to the content item duration indication of each content item and presenting the ordered content item list, as taught by combination with Kaminski, for the typical benefit of allowing a user to more easily locate programs of interest.

As to claim 2, Broadus and Kaminski disclose wherein the content item duration indication is determined in response to a total duration of each content item (see Broadus at column 7, lines 28-38).

As to claim 3, Broadus and Kaminski disclose wherein the content item duration indication is determined in response to a remaining duration of each content item (see Broadus at column 7, lines 53-64).

As to claim 4, Broadus and Kaminski disclose wherein the content item duration indication is determined in response to a remaining duration of each content item relative to a total duration of each content item (remaining program vs. total duration; see Broadus at column 7, lines 28-38 and column 9, lines 62-67).

As to claim 5, Broadus and Kaminski disclose wherein the content item duration indication is comprises an indication of a fraction of a remaining duration of each content item with respect to the total duration of each content item (remaining program vs. total duration; see Broadus at column 7, lines 28-38 and column 9, lines 62-67).

As to claim 6, Broadus and Kaminski disclose wherein the content item duration indication is determined in response to a received duration of each content item (see Broadus at column 7, lines 53-64).

As to claim 7, Broadus and Kaminski disclose wherein the content item duration indication is determined in response to a presented duration of each content item relative to a total duration of each content item (remaining program vs. total duration; see Broadus at column 7, lines 28-38 and column 9, lines 62-67).

As to claim 8, Broadus and Kaminski disclose wherein the content item duration indication is comprises an indication of a fraction of a presented duration of each content item with respect to the total duration of each content item (remaining program vs. total duration; see Broadus at column 7, lines 28-38 and column 9, lines 62-67).

As to claim 9, Broadus and Kaminski disclose determining a second content item duration indication for each of the plurality of content items (elapsed duration, remaining duration; see Broadus at column 7, lines 53-64); the second content item duration indication being different from the content item duration indication (elapsed duration, remaining duration; see Broadus at column 7, lines 53-64); and

wherein the step of determining an ordered content item list comprises ordering the plurality of content items (see Kaminski at Fig. 14; paragraphs 92-94) in response to the content duration indication of each content item (such as elapsed time; see Broadus at column 7, lines 53-64) or in response to the second content item duration indication of each content item (such as remaining time; see Broadus at column 7, lines 53-64) in response to a user preference (user selection of a particular sort option; see Kaminski at Fig. 14, paragraphs 92-94).

As to claim 10, Broadus and Kaminski disclose wherein the user preference is determined in response to a user input (user selection of a particular sort option; see Kaminski at Fig. 14, paragraphs 92-94).

As to claim 11, Broadus and Kaminski disclose wherein a single user activation

causes the user preference to switch between being associated with the content item

duration indication and being associated with the second content item duration

indication (user selection of another sort option; see Kaminski at Fig. 14, paragraphs

92-94).

As to claim 15, Broadus and Kaminski disclose wherein the plurality of content

items include at least one content item from the group of video sources and audio

sources (see Broadus at column 3, line 59-column 4, line 16).

As to claim 16, Broadus and Kaminski disclose wherein the plurality of content

items is received from a plurality of content sources (see Broadus at column 3, line 59-

column 4, line 16).

As to claim 17, Broadus and Kaminski disclose a computer program enabling a

method to be carried out (see Broadus at column 5, lines 37-46) according to claim 1

(see the rejection of claim 1 above).

As to claim 18, Broadus discloses an apparatus for providing a selection list of

content items (STB, 102; Fig. 5-6; column 7, line 65-column 8, line 9), the apparatus

comprising:

a content receiver (302, column 4, lines 55-65) for receiving a plurality of content items from at least one content source (column 6, lines 9-16);

a duration processor (312, column 6, lines 24-35) for determining a content item duration indication for each of the plurality of content items, wherein the content item duration indication is related to a duration of each content item (elapsed duration, remaining duration and total duration; column 7, lines 28-64).

While Broadus discloses a processor for controlling all of the software components of the system (column 6, lines 24-35) and a user interface for presenting a content item list as the selection list to a user (Fig. 5-6; column 7, line 65-column 8, line 15), wherein the content item duration indication comprises an indication of a remaining duration of each content item relative to a total duration of each content item (remaining program vs. total duration; see Broadus at column 7, lines 28-38 and column 9, lines 62-67), he fails to specifically disclose determining an ordered content item list by ordering the plurality of content items in response to the content item duration indication of each content item and presenting the ordered content item list.

In an analogous art, Kaminski discloses a method of providing a selection list of content items (Fig. 14; paragraph 92-94), which will determine an ordered content item list (sorting the programs; Fig. 14; paragraph 92-94) by ordering the plurality of content items in response to a duration indication of the content item (Fig. 14; paragraph 92-94) and present the ordered content item list (Fig. 14; paragraphs 92-94) for the typical benefit of allowing users to more easily locate programs of interest, by listing them in the specific order desired by the viewer (paragraphs 92-94).

It would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Broadus's system to include determining an ordered content item list by ordering the plurality of content items in response to the content item duration indication of each content item and presenting the ordered content item list, as taught by combination with Kaminski, for the typical benefit of allowing a user to more easily locate programs of interest.

As to claim 19, Broadus and Kaminski disclose wherein the content item duration indication comprises an indication of a fraction of the remaining duration of each content item with respect to the total duration of each content item, and wherein the ordered content item list is ordered in accordance with the fraction (remaining program vs. total duration; see Broadus at column 7, lines 28-38 and column 9, lines 62-67 and Kaminski at Fig. 14, paragraph 92-94).

5.   Claims 12-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Broadus and Kaminski and further in view of Lemmons.

As to claim 12, while Broadus and Kaminski disclose determining the user preference they fail to specifically disclose determining the user preference in response to at least one previous user preference input.

In an analogous art, Lemmons discloses a method of providing a selection list of content items (Fig. 7; paragraph 74), which will determine an ordered content item list (sorting the programs; paragraph 76, 80-82) by ordering the plurality of content items in

response to a time attribute (paragraphs 82-85) and present the ordered content item

list (Fig. 7; paragraphs 80-85) which will determine a user preference in response to at

least one previous user preference input (defined by previous user search selections;

see Lemmons at Fig. 7, paragraphs 78 and 82) for the typical benefit of providing a

more user friendly system which is automatically customized based upon the users

preferences (paragraph 1, 78, 82).

It would have been obvious to one of ordinary skill in the art at the time of

invention by applicant to modify Broadus and Kaminski's system to include determining

the user preference in response to at least one previous user preference input, as

taught in combination with Lemmons, for the typical benefit of providing a more user

friendly system which is automatically customized based upon the users preferences.

As to claim 13, while Broadus and Kaminski disclose determining the user

preference, they fail to specifically disclose

determining a preferred user preference for different operating conditions;

determining a current operating condition;

setting the user preference as the preferred user preference for the current

operating condition.

In an analogous art, Lemmons discloses a method of providing a selection list of

content items (Fig. 7; paragraph 74), which will determine an ordered content item list

(sorting the programs; paragraph 76, 80-82) by ordering the plurality of content items in

response to a time attribute (paragraphs 82-85) and present the ordered content item

list (Fig. 7; paragraphs 80-85) which will determine a preferred user preference for

different operating conditions (preferred default selection; see Lemmons at paragraphs

78 and 82), determine a current operating condition (desired operation, such as search

or sort; see Lemmons at paragraph 78 and paragraph 80) and set the user preference

as the preferred user preference for the current operating condition (see Lemmons at

paragraphs 78 and 82) for the typical benefit of providing a more user friendly system

which is automatically customized based upon the users preferences (paragraph 1, 78,

82).

It would have been obvious to one of ordinary skill in the art at the time of

invention by applicant to modify Broadus and Kaminski's system to include determining

a preferred user preference for different operating conditions, determining a current

operating condition, and setting the user preference as the preferred user preference for

the current operating condition, as taught in combination with Lemmons, for the typical

benefit of providing a more user friendly system which is automatically customized

based upon the users preferences.

As to claim 14, Broadus, Kaminski and Lemmons disclose wherein the current

operating condition is determined in response to at least a content item content

characteristic (as different content searches would have different available sort

selections; see Lemmons at paragraph 82).

6.   Claims 1-3, 5-11 and 15-19 are rejected under 35 U.S.C. 103(a) as being

unpatentable over Broadus (7,203,952) (of record) in view of Daily et al. (Daily) (US

2004/0123320 A1).

As to claim 1, Broadus discloses a method of providing a selection list of content

items (Fig. 5-6; column 7, line 65-column 8, line 9), the method comprising the acts of:

receiving a plurality of content items from at least one content source (column 6,

lines 9-16);

determining a content item duration indication for each of the plurality of content

items, wherein the content item indication is related to a duration of each content item

(elapsed duration, remaining duration and total duration; column 7, lines 28-64).

While Broadus discloses presenting a content item list as the selection list to a

user (Fig. 5-6; column 7, line 65-column 8, line 15), wherein the content item duration

indication comprises an indication of a remaining duration of each content item relative

to a total duration of each content item (remaining program vs. total duration; see

Broadus at column 7, lines 28-38 and column 9, lines 62-67), he fails to specifically

disclose determining an ordered content item list by ordering the plurality of content

items in response to the content item duration indication of each content item and

presenting the ordered content item list.

In an analogous art, Daily discloses a method of providing a selection list of

content items (paragraph 26), which will determine an ordered content item list (sorting

the programs; 62) by ordering the plurality of content items based upon the duration of

the programs (program length; paragraph 62) for the typical benefit of allowing users to

easily browse and locate programs of interest (paragraph 62).

It would have been obvious to one of ordinary skill in the art at the time of

invention by applicant to modify Broadus's system to include determining an ordered

content item list by ordering the plurality of content items in response to the content item

duration indication of each content item and presenting the ordered content item list, as

taught by combination with Daily, for the typical benefit of allowing users to easily

browse and locate programs of interest.

As to claim 2, Broadus and Daily disclose wherein the content item duration

indication is determined in response to the total duration of each content item (see

Broadus at column 7, lines 28-38).

As to claim 3, Broadus and Daily disclose wherein the content item duration

indication is determined in response to a remaining duration of each content item (see

Broadus at column 7, lines 53-64).

As to claim 5, Broadus and Daily disclose wherein the content item duration

indication is comprises an indication of a fraction of the remaining duration of each

content item with respect to the total duration of each content item (remaining program

vs. total duration; see Broadus at column 7, lines 28-38 and column 9, lines 62-67).

As to claim 6, Broadus and Daily disclose wherein the content item duration indication is determined in response to a received duration of each content item (see Broadus at column 7, lines 53-64).

As to claim 7, Broadus and Daily disclose wherein the content item duration indication is determined in response to a presented duration of each content item relative to the total duration of each content item (remaining program vs. total duration; see Broadus at column 7, lines 28-38 and column 9, lines 62-67).

As to claim 8, Broadus and Daily disclose wherein the content item duration indication is comprises an indication of a fraction of the presented duration of each content item with respect to the total duration of each content item (remaining program vs. total duration; see Broadus at column 7, lines 28-38 and column 9, lines 62-67).

As to claim 9, Broadus and Daily disclose determining a second content item duration indication for each of the plurality of content items (elapsed duration, remaining duration; see Broadus at column 7, lines 53-64); the second content item duration indication being different from the content item duration indication (elapsed duration, remaining duration; see Broadus at column 7, lines 53-64); and

wherein the step of determining an ordered content item list comprises ordering the plurality of content items (see Daily at paragraph 62) in response to the content duration indication of each content item (such as elapsed time; see Broadus at column

7, lines 53-64) or in response to the second content item duration indication of each

content item (such as remaining time; see Broadus at column 7, lines 53-64) in

response to a user preference (see Daily at paragraph 62).

As to claim 10, Broadus and Daily disclose wherein the user preference is

determined in response to a user input (see Daily at paragraph 61-62).

As to claim 11, Broadus and Daily disclose wherein a single user activation

causes the user preference to switch between being associated with the content item

duration indication and being associated with the second content item duration

indication (user selection of another sort option; see Daily at paragraph 61-62).

As to claim 15, Broadus and Daily disclose wherein the plurality of content items

include at least one content item from the group of video sources and audio sources

(see Broadus at column 3, line 59-column 4, line 16).

As to claim 16, Broadus and Daily disclose wherein the plurality of content items

is received from a plurality of content sources (see Broadus at column 3, line 59-column

4, line 16).

As to claim 17, Broadus and Daily disclose a computer program enabling a method to be carried out (see Broadus at column 5, lines 37-46) according to claim 1 (see the rejection of claim 1 above).

As to claim 18, Broadus discloses an apparatus for providing a selection list of content items (STB, 102; Fig. 5-6; column 7, line 65-column 8, line 9), the apparatus comprising:

a content receiver (302, column 4, lines 55-65) for receiving a plurality of content items from at least one content source (column 6, lines 9-16);

a duration processor (312, column 6, lines 24-35) for determining a content item duration indication for each of the plurality of content items, wherein the content item duration indication is related to a duration of each content item (elapsed duration, remaining duration and total duration; column 7, lines 28-64).

While Broadus discloses a processor for controlling all of the software components of the system (column 6, lines 24-35) and a user interface for presenting a content item list as the selection list to a user (Fig. 5-6; column 7, line 65-column 8, line 15), wherein the content item duration indication comprises an indication of a remaining duration of each content item relative to a total duration of each content item (remaining program vs. total duration; see Broadus at column 7, lines 28-38 and column 9, lines 62-67), he fails to specifically disclose determining an ordered content item list by ordering the plurality of content items in response to the content item duration indication of each content item and presenting the ordered content item list.

In an analogous art, Daily discloses a method of providing a selection list of content items (paragraph 26), which will determine an ordered content item list (sorting the programs; 62) by ordering the plurality of content items based upon the duration of the programs (program length; paragraph 62) for the typical benefit of allowing users to easily browse and locate programs of interest (paragraph 62).

It would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Broadus's system to include determining an ordered content item list by ordering the plurality of content items in response to the content item duration indication of each content item and presenting the ordered content item list, as taught by combination with Daily, for the typical benefit of allowing users to easily browse and locate programs of interest.

As to claim 19, Broadus and Daily disclose wherein the content item duration indication comprises an indication of a fraction of the remaining duration of each content item with respect to the total duration of each content item, and wherein the ordered content item list is ordered in accordance with the fraction (remaining program vs. total duration; see Broadus at column 7, lines 28-38 and column 9, lines 62-67 and Daily at paragraph 62).

7.   Claims 12-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Broadus and Daily and further in view of Lemmons.

As to claim 12, while Broadus and Daily disclose determining the user preference they fail to specifically disclose determining the user preference in response to at least one previous user preference input.

In an analogous art, Lemmons discloses a method of providing a selection list of content items (Fig. 7; paragraph 74), which will determine an ordered content item list (sorting the programs; paragraph 76, 80-82) by ordering the plurality of content items in response to a time attribute (paragraphs 82-85) and present the ordered content item list (Fig. 7; paragraphs 80-85) which will determine a user preference in response to at least one previous user preference input (defined by previous user search selections; see Lemmons at Fig. 7, paragraphs 78 and 82) for the typical benefit of providing a more user friendly system which is automatically customized based upon the users preferences (paragraph 1, 78, 82).

It would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Broadus and Daily's system to include determining the user preference in response to at least one previous user preference input, as taught in combination with Lemmons, for the typical benefit of providing a more user friendly system which is automatically customized based upon the users preferences.

As to claim 13, while Broadus and Daily disclose determining the user preference, they fail to specifically disclose

determining a preferred user preference for different operating conditions;

determining a current operating condition;

setting the user preference as the preferred user preference for the current

operating condition.

In an analogous art, Lemmons discloses a method of providing a selection list of

content items (Fig. 7; paragraph 74), which will determine an ordered content item list

(sorting the programs; paragraph 76, 80-82) by ordering the plurality of content items in

response to a time attribute (paragraphs 82-85) and present the ordered content item

list (Fig. 7; paragraphs 80-85) which will determine a preferred user preference for

different operating conditions (preferred default selection; see Lemmons at paragraphs

78 and 82), determine a current operating condition (desired operation, such as search

or sort; see Lemmons at paragraph 78 and paragraph 80) and set the user preference

as the preferred user preference for the current operating condition (see Lemmons at

paragraphs 78 and 82) for the typical benefit of providing a more user friendly system

which is automatically customized based upon the users preferences (paragraph 1, 78,

82).

It would have been obvious to one of ordinary skill in the art at the time of

invention by applicant to modify Broadus and Daily's system to include determining a

preferred user preference for different operating conditions, determining a current

operating condition, and setting the user preference as the preferred user preference for

the current operating condition, as taught in combination with Lemmons, for the typical

benefit of providing a more user friendly system which is automatically customized

based upon the users preferences.

As to claim 14, Broadus, Daily and Lemmons disclose wherein the current

operating condition is determined in response to at least a content item content

characteristic (as different content searches would have different available sort

selections; see Lemmons at paragraph 82).

Conclusion

8.   The following are suggested formats for either a Certificate of Mailing or
Certificate of Transmission under 37 CFR 1.8(a). The certification may be included with
all correspondence concerning this application or proceeding to establish a date of
mailing or transmission under 37 CFR 1.8(a). Proper use of this procedure will result in
such communication being considered as timely if the established date is within the
required period for reply. The Certificate should be signed by the individual actually
depositing or transmitting the correspondence or by an individual who, upon information
and belief, expects the correspondence to be mailed or transmitted in the normal course
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I hereby certify that this correspondence is being deposited with the United States Postal Service with
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Please refer to 37 CFR 1.6(d) and 1.8(a)(2) for filing limitations concerning
facsimile transmissions and mailing, respectively.

9.   Any inquiry concerning this communication or earlier communications from the

examiner should be directed to JAMES SHELEHEDA whose telephone number is

(571)272-7357. The examiner can normally be reached on Monday - Friday, 9:00AM -

5:30PM.

        If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Chris Kelley can be reached on (571) 272-7331. The fax phone number for

the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for

published applications may be obtained from either Private PAIR or Public PAIR.

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For more information about the PAIR system, see http://pair-direct.uspto.gov. Should

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Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a

USPTO Customer Service Representative or access to the automated information

system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/James Sheleheda/
Examiner, Art Unit 2424

JS